

PATENT
MB&P Ref. No. : I 3527-RO/SEI
Atty. Dkt. No. INFN/MB0061

REMARKS

This is intended as a full and complete response to the Final Office Action dated June 30, 2005, having a shortened statutory period for response set to expire on September 30, 2005. Applicant submits this response to place the application in condition for allowance or in better form for appeal. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1-4 and 16-20 are pending in the application. Claims 1-4 and 16-20 remain pending following entry of this response. Claims 1, 3, 4 and 16-18 have been amended to more clearly recite the features of the claimed invention. Applicants submit that the amendments do not introduce new matter and do not raise new issues.

Drawing Objection

The drawings are objected to because reference numeral 33 is not shown in the drawings. Applicant submits that paragraph [0058] has been amended, in the previous response, to recite the reference numeral "32" instead of "33". Thus, the objection is believed to be obviated, and withdrawal of the objection is respectfully requested.

Claim Rejections - 35 USC § 112

Claims 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 16 and 17 have been amended to correct editorial errors. Applicant believes the rejection is obviated and respectfully requests withdrawal of the rejection.

Claim Rejections - 35 USC § 102

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by *Dunn et al.* (hereinafter "*Dunn*") USPN 5,705,407. Applicant respectfully traverses this rejection.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9

PATENT
MB&P Ref. No. : I 3527-RO/SEI
Atty. Dkt. No. INFN/MB0081

USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

In this case, *Dunn* does not disclose "each and every element as set forth in the claim". For example, *Dunn* does not disclose that the first conductor is electrically connected to another second conductor in the second patterned metal layer which is disposed above the first conductor in the substrate-normal direction. The Examiner argues that *Dunn* discloses all of the elements of claims 1 and 2 in Figure 5 of *Dunn*. However, the cited drawing figure and the corresponding description in *Dunn* clearly show that the first conductor (cited by Examiner as reference numeral "45") does not connect to any second conductor (cited by Examiner as reference numeral "47").

Therefore, the claims are believed to be in condition for allowance, and allowance of the claims is respectfully requested.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by *Koyanagi et al.* (hereinafter "*Koyanagi*") US PG-Pub 2001/0005059. Applicant respectfully traverses this rejection.

In this case, *Koyanagi* does not disclose "each and every element as set forth in the claim". For example, *Koyanagi* does not disclose that the second contact is electrically connected to the second conductor without an intermediate connection to any conductor of the first metal layer. The Examiner argues that *Koyanagi* discloses all of the elements of claims 1 in Figure 2 of *Koyanagi*. However, the cited drawing figure and the corresponding description in *Koyanagi* clearly show that the second contact (cited by Examiner as reference numeral "24") is connected to the second conductor (cited by Examiner as reference numeral "42B") via the aluminum wiring 34 (note the same hatching showing for the aluminum wiring for the same layer in the figure) which is in the same wiring layer for the first conductor (cited by Examiner as reference numeral "34") that connects to the first contact (cited by Examiner as reference numeral "26"). As such, *Koyanagi* discloses a conventional device, such as the one discussed in the background section of the present invention with reference to Figure 16.

Therefore, the claims are believed to be in condition for allowance, and allowance of the claims is respectfully requested.

PATENT
MB&P Ref. No. : I 3527-RO/SEI
Atty. Dkt. No. INFN/MB0061

Claims 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by *Koyanagi*. Applicant respectfully traverses this rejection.

In this case, *Koyanagi* does not disclose "each and every element as set forth in the claim". For example, *Koyanagi* does not disclose that one of the second conductors is disposed above the second contact in the substrate-normal direction and directly connected to the second contact surface through a first contact hole filled with conductive material. As discussed above, *Koyanagi* discloses only a conventional device as discussed in the background section of the present invention with reference to Figure 16.

Therefore, the claims are believed to be in condition for allowance, and allowance of the claims is respectfully requested.

Claim Rejections - 35 USC § 103

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Koyanagi* in view of *Yokoyama* US PG-Pub 2001/0029079.

The Examiner takes the position that "it would have been obvious to one skilled in the art at the time the invention was made to incorporate *Yokoyama* teachings since that would provide the advantages of both MOS and bipolar transistors."

Applicant respectfully traverses this rejection.

The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. See MPEP § 2142. To establish a *prima facie* case of obviousness three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP § 2143. The present rejection fails to establish at least the third criteria.

As discussed above with respect to claim 18, *Koyanagi* does not disclose "each and every element as set forth in the claim". Therefore, the claims are believed to be in condition for allowance, and allowance of the claims is respectfully requested.

PATENT
MB&P Ref. No. : 13527-RO/SEI
Atty. Dkt. No. INFN/MB0061

Conclusion

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to the Applicant's disclosure than the primary references cited in the office action. Therefore, Applicant believes that a detailed discussion of the secondary references is not necessary for a full and complete response to this office action.

Having addressed all issues set out in the office action, Applicant respectfully submits that the claims are in condition for allowance and respectfully requests that the claims be allowed.

Respectfully submitted,



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Page 10

391842_1